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Law and Parliamentary Affairs Secretariat

Notification No. LAW 98 LCA 75

Bangalore dated 19th December 1975.

Ordered that the Voluntary Disclosure of Income and Wealth (Amendment) Ordinance, 1975, (No. 23 of 1975) published in Part II, Section I of the Gazette of India, Extraordinary, dated 29th November 1975, be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. Nagesha Rao,

Under Secretary to Government.

Department of Law and Parliamentary Affairs

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th November, 1975/Agrahayana 8, 1897 (Saka)

THE VOLUNTARY DISCLOSURE OF INCOME AND WEALTH (AMENDMENT) ORDINANCE, 1975

No. 23 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to amend the Voluntary Disclosure of Income and Wealth Ordinance, 1975.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. Short title and commencement. (1) This Ordinance may be called the Voluntary Disclosure of Income and Wealth (Amendment) Ordinance, 1975.

(2) It shall come into force at once.

2. Amendment of Section 5 .—In section 5 of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 (15 of 1975) (hereinafter referred to as "the Ordinance"). for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The security required to be furnished by a declarant for the purposes of sub-section (2) shall be in such form and in such manner as the Commissioner may; in his discretion, direct".

3 **Amendment of section 12.**—In section 12 of the Ordinance, after sub-section (2) the following sub-section shall be inserted, namely:—

"(3) The provisions of sub-sections (1) and (2) shall apply in relation to all documents and particulars relating to the investment in the securities referred to in sub-section (3) of section 3 (including the payment of interest on such securities) as they apply in relation to the declaration made under sub-section (1) of that section and the particulars contained therein."

4 **Amendment of section 13.**—In section 13 of the Ordinance, in sub-section (1),—

(*i*) after the words "then, notwithstanding anything contained in the Wealth-tax Act", the words "or any rules made thereunder" shall be inserted ;

(*ii*) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—Where a declaration under sub-section (1) of section 3 is made by a firm, the assets referred to in clause (i) or, as the case may be, the amount referred to in clause (ii) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm".

5 **Insertion of new section 15A.**—After section 15 of the Ordinance, the following section shall be inserted, namely :—

Immunity from penalty, prosecution, etc , under certain Acts.— '15A. (*1*) Where—

(*a*) the voluntarily disclosed income declared under sub-section (1) of section 3 or any part thereof, or

(*b*) the net wealth, or the assets value whereof is, declared under sub-section (1) of section 15 or any part of such net wealth or assets.

is or are represented by gold, then, notwithstanding anything contained in the Customs Act, 1962 (52 of 1962) or the Gold Control) Act, 1968, (45 of 1968) such gold shall not be liable to confiscation under either of the said Acts and the person making the declaration shall not be liable to imposition of any penalty or infliction of any punishment under either of the said Acts for any act or omission in relation to such gold; if he fulfils the following conditions namely :—

(*A*) in a case where the gold is owned, possessed, held or controlled by the person making the declaration (such gold being owned, possessed, held or controlled by him in his capacity as a licensed dealer), necessary entries are made by him in the accounts, registers and documents maintained under the Gold (Control) Act, 1968, (45 of 1968) under intimation to the Gold Control Officer of the rank of an Assistant Collector of Central Excise or of Customs before the 1st day of February, 1976 and such other steps as are necessary for him to comply with the requirements of that Act in relation to such gold are taken by him before that date ;

(*B*) in any other case,

(*i*) where the gold is an article or ornament or both and the weight of such article or ornament, or the aggregate weight of both, together with the weight of any other gold (being an article or ornament) owned, possessed, held or controlled by him, exceeds the limits specified in sub-section (5) of section 16 of the Gold (Control) Act 1968, (45 of 1968) such article or ornament or both, as the case may be, is or are declared in the form prescribed under sub-section (1), and in the manner specified in sub-section (8), of that section before the 1st day of February, 1976 ;

(*ii*) where the gold is primary gold, such gold is either sold to any licensed dealer under intimation to the Gold Control Officer of the rank of an Assistant Collector of Central Excise or of Customs before the 1st day of February, 1976 or is made into ornaments and a declaration in this behalf is made in the form

prescribed under sub-section (1), and in the manner specified in sub-section (8), of section 16 of the Gold (Control) Act, 1968(45 of 1968) before that date.

(2) Notwithstanding anything contained in the Gold (Control) Act, 1968, (45 of 1968) any primary gold referred to in sub-clause (ii) of clause (B) of sub-section (1) may be sold by the person making the declaration to any licensed dealer and such licensed dealer may purchase such gold, provided that the total quantity of primary gold (not being in the form of standard gold bars) in the possession or custody of such dealer and the quantity of primary gold (not being in the form of standard gold bars) to be so purchased does not exceed the limit specified in clause (a) or clause (b) or clause (c) or, as the case may be, clause (d) of the proviso to sub-section (1) of section 32 of that Act.

(3) Where a declaration is made under sub-cluase (i) or sub-clause (ii) of Clause (B) of sub-section (1), the provisions of section 16 of the Gold (Control) Act, 1968 (45 of 1968) shall, so far as may be, apply as if such declaration were a declaration made under that section.

(4) The immunity provided under sub-section (1) shall in a case where the person making the declaration is a firm, also extend to the partners of the firm.

(5) Nothing in this section shall apply in relation to any gold,—

(*a*) which has been seized or confiscated under the Customs Act, 1962, (52 of 1962) or the Gold (Control) Act, 1968, (45 of 1968) before the declaration under sub-section (1) of section 3 or, as the case may be, under sub-section (1) of section 15, is made ; or

(*b*) which is seized as a result of any search made under either of the said Acts where such search had commenced before such declaration is made ; or

(*c*) in respect of which any other proceedings under either of the said Acts are pending before any authority before such declaration is made.

(6) For the removal of doubts, it is hereby declared that nothing in this section shall be construed as exempting any person from discharging any obligation under the Gold (Control) Act, 1968, (45 of 1968) after the 1st day of February, 1976 in relation to the gold referred to in this section.

Explanation : For the purposes of this section, the expressions "article" "gold", "Gold Control Officer", "licensed dealer", "ornament", "primary gold" and "standard gold bar" shall have the meanings respectively assigned to them in the Gold (Control) Act, 1968, (45 of 1968)

6 **Amendment of Section 17.**—In section 17 of the Ordinance, after the words "it is hereby declared that", the words, brackets, figures and letter, "save as otherwise expressly provided in the *Explanation* to sub-section (1) of section 13 and in sub section (4) of section 15A", shall be inserted.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary to the Govt. of India

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